IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1002 OF 2006

Mr. Vinayak Keshav Matkari. ..Petitioner.
Vs.
Mrs. Sharmila S. Shanbaug and anr. ..Respondents.

Ms. Aarti Gujare i/by M/s. Parulekar & Associates for the Petitioner.

Mr. P.K.Dhakephalkar for the Respondent No.1.

Mr.A.S.Shitole, APP. for the State.

CORAM : R.S. MOHITE,J.
DATED : 27/4/2006.

P.C.

1. Heard both sides.

2. Rule. By consent, rule made returnable forthwith.

3. This is a petition filed by the first informant. challenging the order dated 25.4.2006 passed by the Chief Metropolitan Magistrate, 19th Court, Mumbai in a criminal case being CC NO.3/PW/2005 pending on the file of the Metropolitan Magistrate, 19th Court, Esplanade, Mumbai. The offences alleged against the present respondent No.1 are punishable under Section-406,420, 465,467, 468,471 and 114 of the I.P.C. It appears that even prior to the commission of these offences, present respondent No.1 got married to one Mr.Shanbaug and left

for USA. The F.I.R. came to be filed in the year 1998. In the circumstances, after F.I.R. was filed, police issued red corner notice to the respondent No.1 in the year 2004. Thereafter, she was arrested in Munich and brought before the concerned Magistrate and she was granted bail on 14.9.2004. Subsequently on 22.2.2005 she applied for permission to go abroad and permission was granted on 24.2.2005 for the period of one year. She returned within the stipulated period. On 22.3.2006 once again she filed an application for permission to go abroad. This application was rejected as the charge was not framed. Subsequently, the charge was framed. After framing the charge, she applied for permission to go abroad and that permission has been granted by the impugned order and the respondent No.1 has been allowed to go abroad for the period of six months from the date of the said order, on her executing bond of Rs.1,00,000/-.

4. After hearing both the sides, I find that there are certain events which make is possible to allow the applicant to go aboard to join the company of her husband. One of the circumstance is that securities of about 49,00,000/- have admittedly been received back by the complainant. Secondly the record indicates that on one occasion the court allowed the respondent No.1 to

go abroad and she returned back within the stipulated period. Thirdly the advocate appearing on behalf of the respondent No.1 undertakes to continue with the trial in her absence. He appeared in the case today and stated that even for the purpose of 313 statement the applicant will return back as and when called by the court. Statement is accepted. I however, find that the condition of bond of Rs.1,00,000/- is not sufficient as the offence includes offence U/s.467 of the I.P.C. which is punishable with life imprisonment. In the circumstances, impugned order is confirmed subject to the modification that instead of bond of Rs.1,00,000/-, the respondent No.1 will have to produce solvent surety in the sum of Rs.5,00,000/- to the satisfaction of the trial court to secure her presence at the trial . Further, if the trial court feels that the presence of the respondent is necessary earlier than six months it will be open for the trial court to inform the advocate for the respondent No.1 who has already stated that he will call upon the respondent No.1 to remain present in the court, as and when called by the court. Subject to these modifications impugned order is confirmed. Lastly it is clarified that the respondent No.1 is permitted to go abroad for the period of six months from the date of her actual departure. This order is passed on the footing that

the departure of the respondent No.1 will be within 30 days from the date of acceptance of the surety bond by the trial court. If she does not leave within a period of 30 days then she will have to apply for fresh permission.

(R. S. MOHITE, J.)